

Ethics & Elections Committee

**Wednesday, January 25, 2006
1:00 PM – 2:30 PM
306 HOB**

REVISED

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Ethics & Elections Committee

Start Date and Time: Wednesday, January 25, 2006 01:00 pm

End Date and Time: Wednesday, January 25, 2006 02:30 pm

Location: 306 HOB

Duration: 1.50 hrs

Consideration of the following bill(s):

HB 125 Voter Registration by Evers

HB 435 Code of Ethics for Public Officers and Employees by Ross

HB 493 Ethics for Public Officers and Employees by Ryan

NOTICE FINALIZED on 01/13/2006 09:31 by Morgan.Alyssa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 125 Voter Registration
SPONSOR(S): Evers and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 208

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Ethics & Elections Committee</u>		West	Mitchell
2) <u>Agriculture & Environment Appropriations Committee</u>			
3) <u>State Administration Council</u>			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 125 would require commercial subagents of the Fish and Wildlife Conservation Commission (FWCC) that sell resident hunting, fishing, or combination licenses or trapping permits to offer voter registration forms to those purchasing a license or permit. Subagents who fail to provide voter registration forms face a civil penalty of \$500 for the first infraction, \$1,000 for the second and \$2,500 for each infraction thereafter.

County supervisors of elections would be responsible for identifying and sending the appropriate number of voter registration forms to the subagents. Supervisors who fail to send the registration forms face fines that are similar to those imposed on subagents.

HB 125 is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

This bill would require private company employees to distribute voter registration forms or face civil penalties. Because of personal belief, some individuals, may not want to be involved in voter registration activities.

B. EFFECT OF PROPOSED CHANGES:

HB 125 enhances the opportunities of Florida residents to register to vote and keep their registration current.

It is unclear how the definition of "third party voter registration organization" in s. 97.027(36), F.S., will be applied to FWCC subagents.

(36) "Third-party registration organization" means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

- (a) A political party;*
- (b) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or*
- (c) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.*

If a subagent is considered a "third party voter registration organization," then it will be subject to the rules and penalties described in s. 97.0575, F.S., including:

- naming a registered agent to be filed with the Division of Elections;
- listing officers and people responsible for day to day operations;
- filing each quarter where they have conducted voter registration; and
- the imposition of fines on all officers of the company and persons collecting registrations ranging from \$500-\$5,000, plus applicable criminal penalties, if a registration is not delivered to the supervisor within ten days.

If FWCC subagents were added to the definition of a "voter registration agency" under s. 97.021(40)¹, F.S., the following would be required of them:

- acceptance of voter registrations from each license applicant (ss. 97.053, 97.058(1), F.S.);
- the date for a valid initial voter registration application is the date the application is received by the subagent (s. 97.053, F.S.);
- development of a form that each applicant will answer in regard to voter registration (s. 97.058(2) F.S.);

¹ Section 97.021(40), F.S., defines "voter registration agency" as "any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

- forwarding completed registrations to the applicable supervisor within 5 days (s. 97.058(6), F.S.);
- retention of any declinations to register for 2 years (s. 97.058(8), F.S.);
- no showing of political preference when registering persons (s. 97.058(8), F.S.); and
- oversight by the FWCC of the conduct of subagents in regard to voter registration (s. 97.058(10), F.S.).

The Department of State (Department) raised the following concerns with HB 125:

- **Regulations/compliance:** The Department is concerned that FWCC subagents would not be bound by the regulations governing the Department of State, the supervisors of elections, voter registration agencies, or third-party voter registration organizations. They are especially concerned that the subagents would not be regulated in regards to promoting undue political influence and turning in voter registration timely.
- **Notice:** The bill contains no mechanism for supervisors of elections to receive an initial list or updates of subagents so that they can provide these subagents with voter registration applications.
- **Responsibilities:** FWCC subagents will be responsible for giving certain persons an "opportunity to register to update a voter registration record." This would cause problems with persons not buying a license and receiving a voter registration, potentially making the subagent a "third-party voter registration organization." The bill is unclear as to whether the subagent will simply hand out registration forms or also be required to receive completed forms and forward them to the supervisors. The subagents are not given a timeline for sending registrations to the supervisors of elections. No one is charged with the responsibility to train the subagents.

Duties of the supervisors of elections are unclear. The bill does not make clear the supervisors responsibility in regards to training the subagents or to the supplying and picking up of registrations. The bill does not cover how the supervisor is to know when registration forms are needed. .

- **Authority to Assess:** The bill does not address who would assess civil penalties. Under subsection (2) of section 372.574, F.S., which is unamended by the bill, the FWCC or any other law enforcement agency has the authority to enforce the statute.
- **Cost:** There is a cost associated to the supervisors with providing copies of voter registration applications to all the subagents.
- **Unintended Exposure to Criminal Penalties:** Under the bill, a supervisor of elections could potentially be subject to criminal sanctions. Under subsection (1)(d) of section 372.574, F.S., any person who violates any provision of section 372.574, F.S., is subject to 2nd degree misdemeanor charges. The bill does not amend this subsection to create an exception for the newly-created provision.
- **Legislative Intent:** The bill's effect is somewhat contrary to the recent trends and legislative interest in monitoring the flow of voter registration applications and activities. This past year, the Legislature specifically enacted section 97.0575, F.S., to address wide-spread complaints during the 2004 general election year that third-party voter registration groups were diverting and culling information from completed registration applications before turning them in to the supervisors of elections' offices, and that these organizations were either failing to submit them timely or not submitting them at all.

C. SECTION DIRECTORY:

Section 1 amends s. 375.574, F.S., to require subagents of the FWCC to conduct voter registration activity and provides penalties for non-compliance.

Section 2 provides the effective date as upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

There would be little if any, extra expense to the Department or supervisors, as they are currently responsible for reaching out to citizens in order to educate them on voting and elections, and to enhance voter registration opportunities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be some impact on the subagents that must provide the voter registration forms and for training on voter registration. Some commercial enterprises may feel that the civil penalties of up to \$5,000 imposed on third-party voter registration organizations do not warrant engaging in the sale of hunting and fishing licenses.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to voter registration; amending s. 372.574, F.S.; requiring subagents appointed by the Fish and Wildlife Conservation Commission for the sale of hunting, fishing, and trapping licenses and permits to provide individuals seeking such licenses and permits the opportunity to register to vote or to update a voter registration; requiring supervisors of elections to provide such subagents with the necessary voter registration applications; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) is added to section 372.574, Florida Statutes, to read:

372.574 Appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits; voter registration duties.--

(4)(a) All subagents appointed under this section shall provide the opportunity to register to vote or to update a voter registration record to each individual who comes to the subagent to purchase any resident hunting license, fishing license, combination license, or trapping permit. Each subagent shall provide each individual with a voter registration application, which shall be provided to the subagent by the voter registration office in the subagent's county.

(b) Within 30 days after the effective date of this act,

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29 each supervisor of elections shall provide an appropriate supply
30 of voter registration applications to each subagent in that
31 supervisor's county and thereafter at the request of the
32 subagent along with appropriate contact information for each
33 subagent to request additional applications.

34 (c) Failure to comply with any provision of this
35 subsection by any subagent or supervisor of elections shall
36 constitute a civil infraction subject to a minimum fine of \$500
37 for the first infraction, \$1,000 for the second infraction, and
38 \$2,500 for each subsequent infraction.

39 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 435

Code of Ethics for Public Officers and Employees

SPONSOR(S): Ross

TIED BILLS:

IDEN./SIM. BILLS: SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Ethics & Elections Committee</u>	<u></u>	<u>West</u>	<u>Mitchell</u>
2) <u>Governmental Operations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Fiscal Council</u>	<u></u>	<u></u>	<u></u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 435 requires employees of quasi-governmental entities to follow the same ethics rules as those of government agencies. The bill would affect all partners and other professionals in a firm that consults or contracts with a quasi-governmental entity. These firms would be prevented from conducting any other business for two years with the quasi-governmental entity. In addition, such firms would be prohibited from conducting business with any other customers that do business with or are regulated by the same quasi-governmental entity.

HB 435 is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill adds new ethical oversight previously limited to state government to quasi-public entities and all private corporations and consultants that do business with these quasi-public entities. As such, the bill expands the reach of state government to many of the employees of companies that do business with quasi-public entities.

Safeguard individual liberty – The bill as drafted could eliminate the freedom of private business employees to do business with a large part of their customer base.

B. EFFECT OF PROPOSED CHANGES:

The employees of quasi-public entities will be required to follow the same ethics standards as employees of state agencies. This includes the rules of state employees for:

- solicitation of gifts under s. 112.313(2), F.S.
- the prohibition against one's relatives doing business with the agency under s. 112.313(3), F.S.
- the prohibition against representing another person or entity for compensation before the agency for two years after vacation of their position. s. 112.313(9)(a)4., F.S.

If these employees are not somehow "grandfathered" in under existing law, they may be required to vacate their positions before this bill becomes law.

Under the bill, section 112.313 (7)(c), F.S., would be added to read:

(c) An owner or officer of an entity that acts as a consultant or contractor for a quasi-public entity, and any employee of such consultant or contractor the duties of whose position are managerial, policymaking, or professional in nature, is subject to this subsection in the same manner as a public officer or employee of an agency unless specifically exempted by statute.

The bill may have implications for government contractors such as utilities, technology companies, accounting firms, planning firms and law firms. If one part of a company has a contract to do business with a quasi-public entity, no other part of that company would be able to do business with anyone that also contracted or does business with that same quasi-public entity.

Section 112.313(9)(c), F.S., could prevent a consultant or contractor from doing any further business with a quasi-public entity or anyone else that does business with the quasi-public entity for two years after any contract has been completed. Contractors may not be able to complete their contract requirements without violating the provisions of this bill.

It is unclear from the bill what authority the Commission on Ethics will have to investigate consultants and contractors under s. 112.324, F.S. It is also unclear if any penalties are imposed under s. 112.317, F.S., for violations of the new requirements.

The bill appears to be designed to address some of the recent alleged ethical problems with quasi-public entities like Citizens Property Insurance which serves as the state's insurer of last resort for Floridians who cannot otherwise obtain property insurance and PRIDE that runs prison industries. The goal of the bill seems to be to maintain public confidence in the institutions that establish and carry out public policy. State law currently imposes limitations on public officers and employees, to

prevent them from giving themselves lucrative outside contracts with the companies they run. The bill would extend these restrictions to quasi-public entities and the private consultants and contracting companies that do business with them.

C. SECTION DIRECTORY:

Section 1 amends s. 112.312, F.S., to add quasi-public entities to the definition of agency and then defines a quasi-public entity.

Section 2 amends s.112.313, F.S., requires that consultants or contractors and employees that are partners or professionals that do business with quasi-public entities will not be able to do any more business with the quasi-public entity or any of their other contractors for two years following the end of their contract.

Section 3 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Each quasi-public entity will need to make major changes in how they conduct business.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to the code of ethics for public officers and employees; amending s. 112.312, F.S.; redefining the term "agency" and defining the term "quasi-public entity"; amending s. 112.313, F.S.; applying provisions of the code of ethics which prohibit conflicting employment or contractual relationships and limit permissible representations following termination of office or employment to owners, officers, and employees of consultants and contractors for certain entities created pursuant to law for a public purpose; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 112.312, Florida Statutes, is amended, present subsections (21) through (24) of that section are renumbered as subsections (22) through (25), respectively, and a new subsection (21) is added to that section to read:

112.312 Definitions.--As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any quasi-public entity; or any public school,

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community college, or state university.

(21) "Quasi-public entity" means an entity that is not the state, a political subdivision of the state, a municipality, or a department, division, bureau, commission, or authority subordinate to the state, a political subdivision of the state, or a municipality and that has been created by a government entity pursuant to law to accomplish a public purpose.

Section 2. Subsections (7) and (9) of section 112.313, Florida Statutes, are amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.--

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.--

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is

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57 | limited specifically to constructing, maintaining, managing, and
 58 | financing improvements in the land area over which the agency
 59 | has jurisdiction, or when the agency has been organized pursuant
 60 | to chapter 298, then employment with, or entering into a
 61 | contractual relationship with, such business entity by a public
 62 | officer or employee of such agency shall not be prohibited by
 63 | this subsection or be deemed a conflict per se. However, conduct
 64 | by such officer or employee that is prohibited by, or otherwise
 65 | frustrates the intent of, this section shall be deemed a
 66 | conflict of interest in violation of the standards of conduct
 67 | set forth by this section.

68 | 2. When the agency referred to is a legislative body and
 69 | the regulatory power over the business entity resides in another
 70 | agency, or when the regulatory power which the legislative body
 71 | exercises over the business entity or agency is strictly through
 72 | the enactment of laws or ordinances, then employment or a
 73 | contractual relationship with such business entity by a public
 74 | officer or employee of a legislative body shall not be
 75 | prohibited by this subsection or be deemed a conflict.

76 | (b) This subsection shall not prohibit a public officer or
 77 | employee from practicing in a particular profession or
 78 | occupation when such practice by persons holding such public
 79 | office or employment is required or permitted by law or
 80 | ordinance.

81 | (c) An owner or officer of an entity that acts as a
 82 | consultant or contractor for a quasi-public entity, and any
 83 | employee of such consultant or contractor the duties of whose
 84 | position are managerial, policymaking, or professional in

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85 nature, is subject to this subsection in the same manner as a
 86 public officer or employee of an agency unless specifically
 87 exempted by statute.

88 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
 89 LEGISLATORS, ~~AND~~ LEGISLATIVE EMPLOYEES, AND OTHER PERSONS.--

90 (a)1. It is the intent of the Legislature to implement by
 91 statute the provisions of s. 8(e), Art. II of the State
 92 Constitution relating to legislators, statewide elected
 93 officers, appointed state officers, and designated public
 94 employees.

95 2. As used in this paragraph:

96 a. "Employee" means:

97 (I) Any person employed in the executive or legislative
 98 branch of government holding a position in the Senior Management
 99 Service as defined in s. 110.402 or any person holding a
 100 position in the Selected Exempt Service as defined in s. 110.602
 101 or any person having authority over policy or procurement
 102 employed by the Department of the Lottery.

103 (II) The Auditor General, the director of the Office of
 104 Program Policy Analysis and Government Accountability, the
 105 Sergeant at Arms and Secretary of the Senate, and the Sergeant
 106 at Arms and Clerk of the House of Representatives.

107 (III) The executive director of the Legislative Committee
 108 on Intergovernmental Relations and the executive director and
 109 deputy executive director of the Commission on Ethics.

110 (IV) An executive director, staff director, or deputy
 111 staff director of each joint committee, standing committee, or
 112 select committee of the Legislature; an executive director,

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staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

(VII) Any employee of a quasi-public entity, the duties of whose position are managerial, policymaking, or professional in nature.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another

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person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

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e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(c) An owner or officer of an entity that acts as a consultant or contractor for a quasi-public entity, and any employee of such consultant or contractor the duties of whose position are managerial, policymaking, or professional in nature, is subject to this subsection in the same manner as a member of the Legislature or an agency employee unless specifically exempted by statute.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 493

Ethics for Public Officers and Employees

SPONSOR(S): Ryan

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Ethics & Elections Committee</u>	<u></u>	<u>Shaffer</u>	<u>Mitchell</u>
2) <u>Governmental Operations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Fiscal Council</u>	<u></u>	<u></u>	<u></u>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 493 clarifies and revises portions of the Ethics Code of the State of Florida, and provides for additional restrictions on the conduct of current and former government employees and elected officials. The bill:

- Prohibits government employees from working in political campaigns.
- Prohibits government employees from using information gained while in government employment, except governmental practices or procedures.
- Extends prohibition against representing a client before one's former agency to OPS employees.
- Amends the two-year "revolving door" prohibition against representing a client before one's former agency to "grandfather-in" agency employees who have continuously held a position until leaving state employment that was transferred to the Selected Exempt Service from Career Service System under chapter 2001-43, Laws of Florida.
- Changes the method for disclosing assets and liabilities.
- Requires disclosure of gifts by those leaving employment by July 1; a postmark by midnight on the due date constitutes a timely filed disclosure.
- Allows the Attorney General to file suit to recoup agency costs for collecting penalties.
- Allows unemployed state employees to work for the private entity who assumes the employees' former duties.
- Clarifies the Commission on Ethics' (Commission) rule-making authority specifying that lobbyists may appeal fines resulting from untimely filings of expense reports.
- Suspends a lobbyist's registration if the lobbyist fails to pay a fine; until the fine is paid or waived. Written notice must be sent to suspended lobbyist.
- Prohibits agency employees who participated personally and substantially on a matter from representing or advising any entity other than the state for compensation.

The bill may have an indeterminate, though likely minimal, fiscal impact on state government. It does not appear to have a fiscal impact on local governments.

In 2005, an almost identical version of this bill passed the House and Senate (HB 1377 by Ryan). The bill was vetoed by the Governor. No official comment was received from the Governor's office regarding the changes made to the bill language in response to his veto letter at the time of publication of this analysis. The bill sponsor attempts to address the Governor's concerns with HB 493.

HB 493 is effective October 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0493.ETEL.doc

DATE: 1/13/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill increases the rulemaking authority of the Commission.

Provide Personal Responsibility – The bill requires principled behavior by those serving in the public sector, which in effect requires more personal responsibility.

B. EFFECT OF PROPOSED CHANGES:

Background

The Code of Ethics for Public Officers and Employees, ch. 112, Part III, F.S., sets forth certain requirements and guidelines governing the conduct of public officers and employees. Section 112.311, F.S., outlines three basic objectives in the Code of Ethics:

- The first is the public interest “requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.”
- The second recognizes that “government must attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve.”
- Third, “in order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions ... be regularly disclosed to the people.”

Section 112.311(5), F.S., declares that the policy of the state be “that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest.”

Section 112.311(6), F.S., states “that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public,” and are “bound to observe, in their official acts, the highest standards of ethics consistent with this code ... regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.”

Section 112.313, F.S., provides a person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the governing body of which the person was an officer for a period of two years after vacating that office. This has been interpreted to apply to only to former office holders lobbying current office holders.

Section 112.313, F.S., also provides public officers, agency employees, and local government attorneys are barred from disclosing or using information not available to the public and gained by reason of his or her official position for his or her personal gain or benefit, or for the personal gain or benefit of any other person or business entity.

Section 112.3145, F.S. provides office holders are required to file yearly statements of their personal financial interests. The failure to file a timely report results in a fine of \$25 per day, with a maximum aggregate penalty of \$1,500. Any reporting person may appeal or dispute a fine, and

may base the appeal upon unusual circumstances surrounding the failure to file on the designated due date. The person is entitled to a hearing before the ethics commission, which is permitted to waive the fine in whole or in part for good cause shown.

Section 112.317, F.S., provides violations of any provision of the ethics code can result in various penalties, which include requiring the violator to pay restitution of any pecuniary benefits received because of the violations committed.

The Commission has the duty of receiving and investigating sworn complaints of violations of the Code of Ethics. Section 112.324, F.S., provides that the Commission is only authorized to investigate alleged violations of the Code of Ethics upon a written complaint executed on a form prescribed by the commission and signed under oath or affirmation by any person. Section 112.322, F.S., provides in an investigation, the Commission has the power to subpoena, and currently, witnesses subpoenaed by the Commission are paid mileage and witness fees as authorized for witnesses in civil cases.

Effects of Proposed Changes

A bill (HB 1377 by Ryan) nearly identical to the current bill was passed in 2005, but was vetoed by the Governor. HB 493 attempts to address the Governor's concerns.

The bill prohibits all state and political subdivisions employees from participating in political campaign for an elective office while on duty.

The bill amends the prohibition against using "inside" information gained while in a public position to benefit oneself or another to clarify that it applies to former employees and officers, except for information relating exclusively to governmental practices or procedures. The bill also clarifies the application of the "revolving door" prohibition against representing a client before one's former agency to OPS state employees.

The bill amends the two-year "revolving door" prohibition against representing a client before one's former agency to "grandfather-in" agency employees who have continuously held a position until leaving state employment that was transferred to the Selected Exempt Service from Career Service System under chapter 2001-43, Laws of Florida. The bill requires the conflict of interest disclosure statement that is applicable for competitive bidding be filed with the Ethics Commission instead of the Department of State. The bill also prohibits local elected officials from personally representing another person or entity for compensation before the government body or agency which they were an officer of for 2 years after leaving office.

The bill requires that the certified reminder mailing sent in July each year by the supervisors of elections have a return receipt, allowing the Commission to determine whether the mailing was actually received and by whom. The bill also allows the Commission to waive the penalty for failure to timely file a statement of financial interests only when the person did not receive proper notice of the requirements of filing an annual disclosure.

The bill requires, by October 1 of each year, all supervisors of elections must certify to the Commission a list of names and addresses of all persons who have failed to timely file a statement of financial interests. Current law requires such certification by November 15. The bill also provides the \$1,500 limitation on automatic fines for failing to file a financial statement does not limit the civil penalty that may be imposed if the statement is filed more than 60 after the deadline.

The bill requires gift disclosure forms to be filed for the last portion of one's term of office or employment, and allows quarterly gift disclosure forms to be considered timely-filed if they are postmarked on or before the due date. The bill also requires honorarium-expense disclosure forms to be filed for the last portion of one's term of office or employment.

The bill allows restitution to be paid by the violator to an agency that was damaged by the violation, rather than just to the State. Further, when the Attorney General is required to collect a penalty through a civil action in court, the Attorney General's costs and fees of collecting the penalty to be assessed against the violator. The bill allows the Commission to recommend that any restitution penalty be paid either to agency where the employee worked, where the officer was deemed to be an employee, or to the General Revenue Fund. The bill deletes s. 112.317(6), F.S., which the federal courts have declared unconstitutional (this section provided that breaching confidentiality of an ethics proceeding was a misdemeanor).

Further, the bill eases existing post-employment restrictions for State employees whose jobs are privatized and who then go to work for the private entity. The bill adds a prohibition to keep State executive branch employees from leaving government and then switching sides to represent a client before their former agency in connection with the same matter in which they participated personally and substantially while an agency employee. The bill prohibits a former agency employee from representing or advising for compensation any entity other than the state in any matter in which the employee participated personally and substantially.

The bill prohibits an individual who qualifies as a lobbyist under s. 11.045, F.S., or s. 112.3215, F.S., or a local government charter, or ordinance from serving on the commission except for those individuals who are members of the commission on October 1, 2006, until the expiration of their current term. A member of the commission may not lobby any state or local government entity as provided by s. 11.045, F.S., or s. 112.3215, F.S., or a local government charter, or ordinance. The same exception for members of the commission on October 1, 2006, applies.

The bill clarifies the Commission's rule-making authority regarding appeals of fines for untimely expense report filings, and automatically suspends the registration of a lobbyist who has failed to pay a fine until the fine is paid or waived (as currently is done for legislative lobbyists), unless an appeal of the fine is pending before the Commission. The Commission must provide a written suspension notice to each lobbyist whose registration has been automatically suspended.

The bill allows witnesses required by the Commission to testify outside the county of their residences to receive per diem and travel expenses reimbursed at the State rate.

Finally, the bill amends s. 914.21, F.S., to include in the definition of an "official investigation" any investigation conducted by the Commission.

C. SECTION DIRECTORY:

Section 1 amends s. 104.31, F.S., prohibiting employees of the state and its political subdivisions from participating in a political campaign, for which there are penalties.

Section 2 amends s. 112.313, F.S., prohibiting certain disclosures by a former public officer, agency employee, or local government attorney, for which there are penalties; redefining the term "employee" to include certain other-personal-services employees for certain postemployment activities; exempting certain agency employees from applicability of postemployment restrictions; providing an exemption from provisions prohibiting conflicts in employment to a person who, after serving on an advisory board, files a statement with the Commission on Ethics relating to a bid or submission.

Section 3 amends s. 112.3144, F.S., specifying how assets valued in excess of a specified amount are to be reported by a reporting individual.

Section 4 amends s. 112.3145, F.S., requiring that a delinquency notice be sent to certain officeholders by certified mail, return receipt requested.

Section 5 amends s. 112.3147, F.S., deleting provisions relating to the reporting of assets valued in excess of a specified amount, to conform.

Section 6 amends s. 112.3148, F.S., providing requirements for persons who have left office or employment as to filing a report relating to gifts; providing requirements relating to the deadline for and timeliness of gift reports.

Section 7 amends s. 112.3149, F.S., requiring that a report of honoraria by a person who left office or employment be filed by a specified date.

Section 8 amends s. 112.317, F.S., authorizing the commission to recommend a restitution penalty be paid to the agency of which the public officer was a member or by which the public employee was employed or to the General Revenue Fund; authorizing the Attorney General to recover costs for filing suit to collect penalties and fines; deleting provisions imposing a penalty for the disclosure of information concerning a complaint or an investigation.

Section 9 amends s. 112.3185, F.S., providing additional standards for state agency employees relating to procurement of goods and services by a state agency; authorizing an employee whose position was eliminated to engage in certain contractual activities; prohibiting former employees from certain specified activities.

Section 10 amends s. 112.321, F.S., prohibiting an individual who qualifies as a lobbyist from serving on the commission; prohibiting a member of the commission from lobbying any state or local governmental entity; providing exceptions for individuals who are members of the commission on the effect date of the act until the expiration of their current terms.

Section 11 amends s. 112.3215, F.S., requiring the commission to adopt a rule detailing the grounds for waiving a fine and the procedures to be followed when a lobbyist fails to timely file his or her report; requiring automatic suspension of a lobbyist's registration if the fine is not timely paid; requiring the commission to provide written notice to any lobbyist whose registration is automatically suspended.

Section 12 amends s. 112.322, F.S., authorizing travel and per diem expenses for certain witnesses

Section 13 amends s. 914.21, F.S., redefining the terms "official investigation" and "official proceeding," for purposes of provision relating to tampering with witnesses, to include an investigation by the commission;

Section 14 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

An officer or employee violating ch. 112, F.S., could be required to pay a civil or restitution penalty to the agency for which the violating officer was a member or the employee was employed, or pay the penalty to the General Revenue Fund. The attorney general is entitled to collect any costs, attorney's fees, expert witness fees, or other costs incurred in bringing a civil action to recover such penalties.

2. Expenditures:

A witness, required to travel outside the county of his or her residence in order to testify before the Commission, is entitled to per diem and travel expenses at the same rate as state employees.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

None. The bill does not create, modify, amend, or eliminate a local revenue source.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal impact is indeterminate, though probably not significant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Commission may adopt rules to provide the grounds for waiving a fine and the procedures associated with appealing that fine when a lobbyist fails to timely file a report. Current law already authorizes the Commission to adopt a rule to provide a procedure for notifying a lobbyist who fails to timely file a report.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable

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1 A bill to be entitled

2 An act relating to ethics for public officers and

3 employees; amending s. 104.31, F.S.; prohibiting employees

4 of the state and its political subdivisions from

5 participating in a political campaign, for which there are

6 penalties; amending s. 112.313, F.S.; prohibiting certain

7 disclosures by a former public officer, agency employee,

8 or local government attorney, for which there are

9 penalties; redefining the term "employee" to include

10 certain other-personal-services employees for certain

11 postemployment activities; exempting certain agency

12 employees from applicability of postemployment

13 restrictions; providing an exemption from provisions

14 prohibiting conflicts in employment to a person who, after

15 serving on an advisory board, files a statement with the

16 Commission on Ethics relating to a bid or submission;

17 amending s. 112.3144, F.S.; specifying how assets valued

18 in excess of a specified amount are to be reported by a

19 reporting individual; amending s. 112.3145, F.S.;

20 requiring that a delinquency notice be sent to certain

21 officeholders by certified mail, return receipt requested;

22 amending s. 112.3147, F.S.; deleting provisions relating

23 to the reporting of assets valued in excess of a specified

24 amount, to conform; amending s. 112.3148, F.S.; providing

25 requirements for persons who have left office or

26 employment as to filing a report relating to gifts;

27 providing requirements relating to the deadline for and

28 timeliness of gift reports; amending s. 112.3149, F.S.;

29 requiring that a report of honoraria by a person who left
 30 office or employment be filed by a specified date;
 31 amending s. 112.317, F.S.; authorizing the commission to
 32 recommend a restitution penalty be paid to the agency of
 33 which the public officer was a member or by which the
 34 public employee was employed or to the General Revenue
 35 Fund; authorizing the Attorney General to recover costs
 36 for filing suit to collect penalties and fines; deleting
 37 provisions imposing a penalty for the disclosure of
 38 information concerning a complaint or an investigation;
 39 amending s. 112.3185, F.S.; providing additional standards
 40 for state agency employees relating to procurement of
 41 goods and services by a state agency; authorizing an
 42 employee whose position was eliminated to engage in
 43 certain contractual activities; prohibiting former
 44 employees from certain specified activities; amending s.
 45 112.321, F.S.; prohibiting an individual who qualifies as
 46 a lobbyist from serving on the commission; prohibiting a
 47 member of the commission from lobbying any state or local
 48 governmental entity; providing exceptions for individuals
 49 who are members of the commission on the effective date of
 50 the act until the expiration of their current terms;
 51 amending s. 112.3215, F.S.; requiring the commission to
 52 adopt a rule detailing the grounds for waiving a fine and
 53 the procedures to be followed when a lobbyist fails to
 54 timely file his or her report; requiring automatic
 55 suspension of a lobbyist's registration if the fine is not
 56 timely paid; requiring the commission to provide written

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notice to any lobbyist whose registration is automatically suspended; amending s. 112.322, F.S.; authorizing travel and per diem expenses for certain witnesses; amending s. 914.21, F.S.; redefining the terms "official investigation" and "official proceeding," for purposes of provisions relating to tampering with witnesses, to include an investigation by the commission; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) and (3) of section 104.31, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and a new subsection (2) is added to that section to read:

104.31 Political activities of state, county, and municipal officers and employees.--

(2) An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.

Section 2. Subsection (8), paragraph (a) of subsection (9), paragraph (b) of subsection (12), and subsection (14) of section 112.313, Florida Statutes, are amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.--

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current or former public officer, employee of an agency, or local government attorney shall disclose or use information not

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available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy

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staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another

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person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; ~~or~~

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e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995; ~~or-~~

f. An agency employee who continuously has held a position that was transferred from the Career Service System to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, until leaving state employment.

(12) EXEMPTION.--The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to

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persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics ~~Department of State~~, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.--A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government governing body or agency of which the person was an officer for a period of 2 years after vacating that office.

Section 3. Present subsections (4), (5), and (6) of section 112.3144, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, paragraph (g) of present subsection (4) is amended, and a new subsection (4) is added to that section, to read:

112.3144 Full and public disclosure of financial interests.--

(4)(a) With respect to reporting, on forms prescribed under this section, assets valued in excess of \$1,000 that the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets

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225 that are held jointly with right of survivorship must be
226 reported at 100 percent of the value of the asset. For purposes
227 of this subsection, a reporting individual is deemed to own a
228 percentage of a partnership that is equal to the reporting
229 individual's interest in the capital or equity of the
230 partnership.

231 (b)1. With respect to reporting, on forms prescribed under
232 this section, liabilities valued in excess of \$1,000 for which
233 the reporting individual is jointly and severally liable, the
234 amount reported shall be based on the reporting individual's
235 percentage of liability rather than the total amount of the
236 liability. However, liability for a debt that is secured by
237 property owned by the reporting individual but that is held
238 jointly with right of survivorship must be reported at 100
239 percent of the total amount owed.

240 2. A separate section of the form shall be created to
241 provide for the reporting of the amounts of joint and several
242 liability of the reporting individual not otherwise reported in
243 subparagraph 1.

244 (5)(4) Forms for compliance with the full and public
245 disclosure requirements of s. 8, Art. II of the State
246 Constitution shall be created by the Commission on Ethics. The
247 commission shall give notice of disclosure deadlines and
248 delinquencies and distribute forms in the following manner:

249 (g) The notification requirements and fines of this
250 subsection do not apply to candidates or to the first filing
251 required of any person appointed to elective constitutional
252 office or other position required to file full and public

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disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (6)~~(5)~~.

Section 4. Paragraph (c) of subsection (6) of section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.--

(6) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(c) Not later than 30 days after July 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices by certified mail, return receipt requested, to these ~~such~~ persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current

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year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

Section 5. Section 112.3147, Florida Statutes, is amended to read:

112.3147 Forms.--

~~(1)~~ All information required to be furnished by ss. 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II of the State Constitution shall be on forms prescribed by the Commission on Ethics.

~~(2)(a) With respect to reporting assets valued in excess of \$1,000 on forms prescribed pursuant to s. 112.3144 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property, except that assets held jointly with the reporting individual's spouse shall be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own an interest in a partnership which corresponds to the reporting individual's interest in the capital or equity of the partnership.~~

~~(b)1. With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~

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~~which the reporting individual is jointly and severally liable, the amount reported shall be based upon the reporting individual's percentage of liability rather than the total amount of the liability, except, a joint and several liability with the reporting individual's spouse for a debt which relates to property owned by both as tenants by the entirety shall be reported at 100 percent of the total amount owed.~~

~~2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in paragraph (a).~~

Section 6. Paragraph (d) of subsection (6) and subsection (8) of section 112.3148, Florida Statutes, are amended to read:

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.--

(6)

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall

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attach to the ~~such~~ statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than ~~on~~ the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).

365 3. Gifts otherwise required to be disclosed by this
366 section.

367 (b) The statement shall include:

368 1. A description of the gift, the monetary value of the
369 gift, the name and address of the person making the gift, and
370 the dates thereof. If any of these facts, other than the gift
371 description, are unknown or not applicable, the report shall so
372 state.

373 2. A copy of any receipt for such gift provided to the
374 reporting individual or procurement employee by the donor.

375 (c) The statement may include an explanation of any
376 differences between the reporting individual's or procurement
377 employee's statement and the receipt provided by the donor.

378 (d) The reporting individual's or procurement employee's
379 statement shall be sworn to by such person as being a true,
380 accurate, and total listing of all such gifts.

381 (e) Statements must be filed not later than 5 p.m. on the
382 due date. However, any statement that is postmarked by the
383 United States Postal Service by midnight on the due date is
384 deemed to have been filed in a timely manner, and a certificate
385 of mailing obtained from and dated by the United States Postal
386 Service at the time of the mailing, or a receipt from an
387 established courier company that bears a date on or before the
388 due date, constitutes proof of mailing in a timely manner.

389 ~~(f)(e)~~ If a reporting individual or procurement employee
390 has not received any gifts described in paragraph (a) during a
391 calendar quarter, he or she is not required to file a statement
392 under this subsection for that calendar quarter.

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Section 7. Subsection (6) of section 112.3149, Florida Statutes, is amended to read:

112.3149 Solicitation and disclosure of honoraria.--

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for those ~~such~~ expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. The ~~Such~~ attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics. The

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statement filed by a reporting individual or procurement
employee who left office or employment during the calendar year
covered by the statement shall be filed by July 1 of the year
after leaving office or employment at the same location as his
or her final financial disclosure statement or, in the case of a
former procurement employee, with the Commission on Ethics.

Section 8. Subsections (1), (2), (6), (7), and (8) of
section 112.317, Florida Statutes, are amended to read:

112.317 Penalties.--

(1) Violation of any provision of this part, including,
but not limited to, any failure to file any disclosures required
by this part or violation of any standard of conduct imposed by
this part, or violation of any provision of s. 8, Art. II of the
State Constitution, in addition to any criminal penalty or other
civil penalty involved, shall, under ~~pursuant to~~ applicable
constitutional and statutory procedures, constitute grounds for,
and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third salary per month
for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because
of the violation committed. The commission may recommend that
the restitution penalty be paid to the agency of which the

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public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.
8. Public censure and reprimand.

(c) In the case of a candidate who violates the provisions of this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the ~~prior to such~~

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officer's or employee's leaving public office or employment:

1. Public censure and reprimand.

2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and the proper disciplinary official or body under s. 112.324 imposes ~~recommends~~ a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and recommendations of the commission by certiorari to the district court of appeal. The Attorney General shall collect any costs, attorney's fees, expert witness fees, or other costs of collection incurred in bringing the action.

~~(6) Any person who willfully discloses, or permits to be disclosed, his or her intention to file a complaint, the existence or contents of a complaint which has been filed with the commission, or any document, action, or proceeding in connection with a confidential preliminary investigation of the commission, before such complaint, document, action, or proceeding becomes a public record as provided herein commits a misdemeanor of the first degree, punishable as provided in s.~~

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505 ~~775.082 or s. 775.083.~~

506 (6)~~(7)~~ In any case in which the commission finds probable
507 cause to believe that a complainant has committed perjury in
508 regard to any document filed with, or any testimony given
509 before, the commission, it shall refer such evidence to the
510 appropriate law enforcement agency for prosecution and taxation
511 of costs.

512 (7)~~(8)~~ In any case in which the commission determines that
513 a person has filed a complaint against a public officer or
514 employee with a malicious intent to injure the reputation of
515 such officer or employee by filing the complaint with knowledge
516 that the complaint contains one or more false allegations or
517 with reckless disregard for whether the complaint contains false
518 allegations of fact material to a violation of this part, the
519 complainant shall be liable for costs plus reasonable attorney's
520 fees incurred in the defense of the person complained against,
521 including the costs and reasonable attorney's fees incurred in
522 proving entitlement to and the amount of costs and fees. If the
523 complainant fails to pay such costs and fees voluntarily within
524 30 days following such finding by the commission, the commission
525 shall forward such information to the Department of Legal
526 Affairs, which shall bring a civil action in a court of
527 competent jurisdiction to recover the amount of such costs and
528 fees awarded by the commission.

529 Section 9. Section 112.3185, Florida Statutes, is amended
530 to read:

531 112.3185 Additional standards for state agency employees
532 ~~Contractual services.~~---

533 (1) For the purposes of this section:

534 (a) "Contractual services" shall be defined as set forth

535 in chapter 287.

536 (b) "Agency" means any state officer, department, board,

537 commission, or council of the executive or judicial branch of

538 state government and includes the Public Service Commission.

539 (2) No agency employee who participates through decision,

540 approval, disapproval, recommendation, preparation of any part

541 of a purchase request, influencing the content of any

542 specification or procurement standard, rendering of advice,

543 investigation, or auditing or in any other advisory capacity in

544 the procurement of contractual services shall become or be,

545 while an agency employee, the employee of a person contracting

546 with the agency by whom the employee is employed.

547 (3) No agency employee shall, after retirement or

548 termination, have or hold any employment or contractual

549 relationship with any business entity other than an agency in

550 connection with any contract in which the agency employee

551 participated personally and substantially through decision,

552 approval, disapproval, recommendation, rendering of advice, or

553 investigation while an officer or employee. When the agency

554 employee's position is eliminated and his or her duties are

555 performed by the business entity, this subsection does not

556 prohibit his or her employment or contractual relationship with

557 the business entity if the employee's participation in the

558 contract was limited to recommendation, rendering of advice, or

559 investigation and if the agency head determines that the best

560 interests of the state will be served thereby and provides prior

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written approval for the particular employee.

(4) No agency employee shall, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee. If the agency employee's position is eliminated and his or her duties are performed by the business entity, the provisions of this subsection may be waived by the agency head through prior written approval for a particular employee if the agency head determines that the best interests of the state will be served thereby.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his or her responsibilities, by the agency with whom he or she was employed, for contractual services provided to the agency, shall not exceed the annual salary received on the date of cessation of his or her responsibilities. ~~The provisions of This~~ subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.

(6) No agency employee shall, after retirement or termination, represent or advise for compensation another person or entity, except the state, in any matter in which the employee participated personally and substantially in his or her official capacity through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee. The term "matter" includes any judicial or

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other proceeding, application, request for a ruling, or other
determination, contract, claim, controversy, investigation,
charge, accusation, arrest, or other particular action involving
a specific party or parties.

~~(7)(6)~~ No agency employee acting in an official capacity shall directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which ~~the~~ such officer or employee or his or her spouse or child, or any combination of them, has a material interest.

~~(8)(7)~~ A violation of any provision of this section is punishable in accordance with s. 112.317.

~~(9)(8)~~ This section is not applicable to any employee of the Public Service Commission who was so employed on or before December 31, 1994.

Section 10. Subsection (1) of section 112.321, Florida Statutes, is amended to read:

112.321 Membership, terms; travel expenses; staff.--

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate

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617 shall appoint more than one member from the same political
 618 party. Of the nine members of the commission, no more than five
 619 members shall be from the same political party at any one time.
 620 No member may hold any public employment. An individual who
 621 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
 622 pursuant to any local government charter or ordinance may not
 623 serve as a member of the commission, except that this
 624 prohibition does not apply to an individual who is a member of
 625 the commission on October 1, 2006, until the expiration of his
 626 or her current term. A member of the commission may not lobby
 627 any state or local governmental entity as provided in s. 11.045
 628 or s. 112.3215 or as provided by any local government charter or
 629 ordinance, except that this prohibition does not apply to an
 630 individual who is a member of the commission on October 1, 2006,
 631 until the expiration of his or her current term. All members
 632 shall serve 2-year terms. No member shall serve more than two
 633 full terms in succession. Any member of the commission may be
 634 removed for cause by majority vote of the Governor, the
 635 President of the Senate, the Speaker of the House of
 636 Representatives, and the Chief Justice of the Supreme Court.

637 Section 11. Paragraph (f) of subsection (5) of section
 638 112.3215, Florida Statutes, is amended to read:

639 112.3215 Lobbyists before the executive branch or the
 640 Constitution Revision Commission; registration and reporting;
 641 investigation by commission.--

642 (5)

643 (f) The commission shall provide by rule the grounds for
 644 waiving a fine, the procedures ~~a procedure~~ by which a lobbyist

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who fails to timely file a report shall be notified and assessed
fines, and the procedure for appealing the fines. The rule shall
provide for the following:

1. Upon determining that the report is late, the person
designated to review the timeliness of reports shall immediately
notify the lobbyist as to the failure to timely file the report
and that a fine is being assessed for each late day. The fine
shall be \$50 per day per report for each late day up to a
maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to
review the timeliness of reports shall determine the amount of
the fine due based upon the earliest of the following:

a. When a report is actually received by the lobbyist
registration and reporting office.

b. When the report is postmarked.

c. When the certificate of mailing is dated.

d. When the receipt from an established courier company is
dated.

3. Such fine shall be paid within 30 days after the notice
of payment due is transmitted by the Lobbyist Registration
Office, unless appeal is made to the commission. The moneys
shall be deposited into the Executive Branch Lobby Registration
Trust Fund.

4. A fine shall not be assessed against a lobbyist the
first time any reports for which the lobbyist is responsible are
not timely filed. However, to receive the one-time fine waiver,
all reports for which the lobbyist is responsible must be filed
within 30 days after the notice that any reports have not been

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timely filed is transmitted by the Lobbyist Registration Office.
A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbyist may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any ~~such~~ request shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office. In such case, the lobbyist shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbyist to file a report after notice or of the failure of a lobbyist to pay the fine imposed. The registration of a lobbyist who fails to timely pay a fine is automatically suspended until the fine is paid, unless an appeal of the fine is pending before the commission. The commission shall provide a written suspension notice to each lobbyist whose registration has been automatically suspended.

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbyist's appeal shall be collected by the Department of Financial Services as a claim,

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debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

Section 12. Subsection (4) of section 112.322, Florida Statutes, is amended to read:

112.322 Duties and powers of commission.--

(4) The commission has the power to subpoena, audit, and investigate. The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers. The commission may delegate to its investigators the authority to administer oaths and affirmations. The commission may delegate the authority to issue subpoenas to its chair, and may authorize its employees to serve any subpoena issued under this section. In the case of a refusal to obey a subpoena issued to any person, the commission may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the commission and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases, except that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, to be paid after

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729 the witness appears.

730 Section 13. Subsections (3) and (4) of section 914.21,
731 Florida Statutes, are amended to read:

732 914.21 Definitions.--As used in ss. 914.22-914.24, the
733 term:

734 (3) "Official investigation" means any investigation
735 instituted by a law enforcement agency or prosecuting officer of
736 the state or a political subdivision of the state or the
737 Commission on Ethics.

738 (4) "Official proceeding" means:

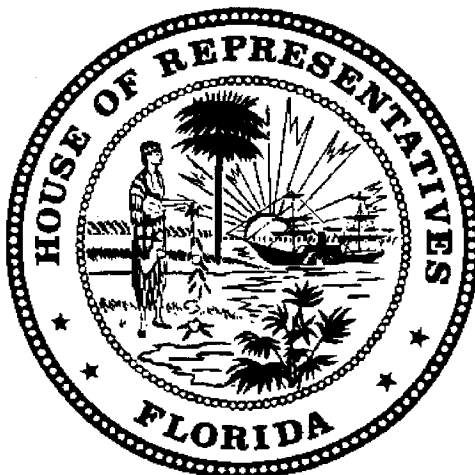
739 (a) A proceeding before a judge or court or a grand jury;

740 (b) A proceeding before the Legislature; ~~or~~

741 (c) A proceeding before a federal agency which is
742 authorized by law; or-

743 (d) A proceeding before the Commission on Ethics.

744 Section 14. This act shall take effect October 1, 2006.



Ethics & Elections Committee

January 25, 2006

1pm 306 HOB

Addendum A

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 125**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER ___

Council/Committee hearing bill: Ethics & Elections
Representative(s) Evers offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (8), (9), (10) and (11) are added
to section 372.561, Florida Statutes, to read:

(8) At each location where hunting, fishing or trapping
licenses or permits are sold, voter registration applications
must be displayed and made available to the public. Subagents
shall not assist persons with applications or collect completed
applications.

(9) Except as provided in subsections (8) and (12), each
individual who applies for a hunting, fishing or trapping
license or permit shall be asked if he would like the
appropriate supervisor of elections to provide a voter
registration application to the applicant at a later date. If,
at the time a license is purchased the applicant indicates that

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

19 he would like to receive a voter registration application, the
20 commission shall within 7 days make the request available to the
21 appropriate supervisor of elections or voter registration agency
22 so that an application may be sent to the applicant. Supervisors
23 of elections shall mail an application to each person requesting
24 such application within 5 business days of receipt of the
25 request.

26 (10) The commission may satisfy the requirements of
27 subsection (9) by providing access to an internet site with the
28 voter registration information included thereon.

29 (11) When acting in its official capacity pursuant to this
30 section, neither the commission nor a subagent is deemed a
31 third-party registration organization as defined in subsection
32 97.021(36), or a voter registration agency as defined in section
33 97.021(40), and is not authorized to solicit, accept or collect
34 voter registration applications, or provide voter registration
35 services.

36 Section 2. Effective October 1, 2006, subsection (12) is
37 added to section 372.561, Florida Statutes, to read:

38 (12) Each person who applies for a hunting, fishing or
39 trapping license or permit on the internet shall be provided a
40 link to the Department of State's online uniform statewide voter
41 registration application.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Section 3. Section 97.05831, Florida Statutes, is created to read:

97.05831 Voter registration applications made available to the Fish and Wildlife Conservation Commission. - As required in section 372.561, Florida Statutes, each supervisor of elections shall supply voter registration applications to the Fish and Wildlife Conservation Commission and its subagents, as needed.

Section 4. Except as otherwise provided herein, this act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to voter registration; amending s. 372.561, F.S.; requiring that individuals applying to buy hunting, fishing, and trapping licenses or permits be asked if they would like a voter registration application; requiring certain information be provided when an individual applies for a hunting, fishing or trapping license or permit on the internet; creating s. 97.05831 F.S., requiring the supervisor of elections of each county to send a voter registration application to individuals requesting registration through the Fish and Wildlife Commission; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0435

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Ethics & Elections Committee
Representative(s) Ross offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (2) and (9) of section 112.312, Florida Statutes, are amended, present subsections (21) through (24) are renumbered as subsections (22) through (25), respectively, and a new subsection (21) is added to that section, to read:

112.312 Definitions.--As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any quasi-public entity; or any public school, community college, or state university.

(9) "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

omission of a public or quasi-public servant which is inconsistent with the proper performance of his or her public or quasi-public duties.

(21) "Quasi-public entity" means an entity that has been created by a government entity pursuant to law to accomplish a public purpose and that is not a state or local government entity.

Section 2. Subsection (3), paragraph (a) of subsection (7), and paragraph (a) of subsection (9) of section 112.313, Florida Statutes, are amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.--

(3) DOING BUSINESS WITH ONE'S AGENCY.--No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state or quasi-public entity officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the

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Amendment No. (for drafter's use only)

legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(a) October 1, 1975.

(b) Qualification for elective office.

(c) Appointment to public office.

(d) Beginning public employment.

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.--

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public or quasi-public duties or that would impede the full and faithful discharge of his or her public or quasi-public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS, ~~AND~~ LEGISLATIVE EMPLOYEES, AND OTHER PERSONS.--

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

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(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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146 person or entity for compensation before the government body or
147 agency of which the individual was an officer or member for a
148 period of 2 years following vacation of office. No member of the
149 Legislature shall personally represent another person or entity
150 for compensation during his or her term of office before any
151 state agency other than judicial tribunals or in settlement
152 negotiations after the filing of a lawsuit.

153 4. No agency employee shall personally represent another
154 person or entity for compensation before the agency with which
155 he or she was employed for a period of 2 years following
156 vacation of position, unless employed by another agency of state
157 government.

158 5. No employee of a quasi-public entity the duties of
159 whose position are managerial, policymaking, or professional in
160 nature and no officer of a quasi-public entity shall personally
161 represent another person or entity for compensation before the
162 agency with which he or she was employed for a period of 2 years
163 following vacation of position unless employed by another agency
164 as defined in s. 112.312(2).

165 ~~6.5.~~ Any person violating this paragraph shall be subject
166 to the penalties provided in s. 112.317 and a civil penalty of
167 an amount equal to the compensation which the person receives
168 for the prohibited conduct.

169 ~~7.6.~~ This paragraph is not applicable to:

170 a. A person employed by the Legislature or other agency
171 prior to July 1, 1989;

172 b. A person who was employed by the Legislature or other
173 agency on July 1, 1989, whether or not the person was a defined
174 employee on July 1, 1989;

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175 c. A person who was a defined employee of the State
176 University System or the Public Service Commission who held such
177 employment on December 31, 1994;

178 d. A person who has reached normal retirement age as
179 defined in s. 121.021(29), and who has retired under the
180 provisions of chapter 121 by July 1, 1991; or

181 e. Any appointed state officer whose term of office began
182 before January 1, 1995, unless reappointed to that office on or
183 after January 1, 1995.

184 f. Any officer or employee of a quasi-public entity whose
185 term of office or employment began before July 1, 2006, unless
186 reappointed as an officer to that office on or after July 1,
187 2006.

188 Section 3. Subsections (1) and (8) of section 112.317,
189 Florida Statutes, are amended to read:

190 112.317 Penalties.--

191 (1) Violation of any provision of this part, including,
192 but not limited to, any failure to file any disclosures required
193 by this part or violation of any standard of conduct imposed by
194 this part, or violation of any provision of s. 8, Art. II of the
195 State Constitution, in addition to any criminal penalty or other
196 civil penalty involved, shall, pursuant to applicable
197 constitutional and statutory procedures, constitute grounds for,
198 and may be punished by, one or more of the following:

199 (a) In the case of a public or quasi-public officer:

- 200 1. Impeachment.
- 201 2. Removal from office.
- 202 3. Suspension from office.
- 203 4. Public censure and reprimand.
- 204 5. Forfeiture of no more than one-third salary per month
- 205 for no more than 12 months.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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6. A civil penalty not to exceed \$10,000.

7. Restitution of any pecuniary benefits received because of the violation committed.

(b) In the case of an employee of an agency or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.

2. Suspension from employment for not more than 90 days without pay.

3. Demotion.

4. Reduction in salary level.

5. Forfeiture of no more than one-third salary per month for no more than 12 months.

6. A civil penalty not to exceed \$10,000.

7. Restitution of any pecuniary benefits received because of the violation committed.

8. Public censure and reprimand.

(c) In the case of a candidate who violates the provisions of this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.

2. Public censure.

3. Reprimand.

4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public or quasi-public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public or quasi-public office or employment:

1. Public censure and reprimand.

2. A civil penalty not to exceed \$10,000.

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Amendment No. (for drafter's use only)

237 3. Restitution of any pecuniary benefits received because
238 of the violation committed.

239 (8) In any case in which the commission determines that a
240 person has filed a complaint against a public or quasi-public
241 officer or employee with a malicious intent to injure the
242 reputation of such officer or employee by filing the complaint
243 with knowledge that the complaint contains one or more false
244 allegations or with reckless disregard for whether the complaint
245 contains false allegations of fact material to a violation of
246 this part, the complainant shall be liable for costs plus
247 reasonable attorney's fees incurred in the defense of the person
248 complained against, including the costs and reasonable
249 attorney's fees incurred in proving entitlement to and the
250 amount of costs and fees. If the complainant fails to pay such
251 costs and fees voluntarily within 30 days following such finding
252 by the commission, the commission shall forward such information
253 to the Department of Legal Affairs, which shall bring a civil
254 action in a court of competent jurisdiction to recover the
255 amount of such costs and fees awarded by the commission.

256 Section 4. Paragraph (d) of subsection (8) of section
257 112.324, Florida Statutes, is amended to read:

258 112.324 Procedures on complaints of violations; public
259 records and meeting exemptions.--

260 (8) If, in cases pertaining to complaints other than
261 complaints against impeachable officers or members of the
262 Legislature, upon completion of a full and final investigation
263 by the commission, the commission finds that there has been a
264 violation of this part or of s. 8, Art. II of the State
265 Constitution, it shall be the duty of the commission to report
266 its findings and recommend appropriate action to the proper
267 disciplinary official or body as follows, and such official or

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body shall have the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art. II of the State Constitution:

(d) Except as otherwise provided by this part, the Governor, in the case of any other public or quasi-public officer, public or quasi-public employee, former public or quasi-public officer or public employee, candidate, or former candidate.

Section 5. If any provision of this act or its application thereof to any individual or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are to be severable.

Section 6. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to the code of ethics for public officers and employees; amending s. 112.312, F.S.; revising the terms "agency" and "corruptly"; defining the term "quasi-public entity"; amending s. 112.313, F.S.; applying provisions of the code of ethics which prohibit conflicting employment or contractual relationships and limit permissible representations following termination of office or employment to owners, officers, and employees of consultants and contractors for certain entities created

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pursuant to law for a public purpose; providing penalties; amending s. 112.317, F.S.; providing specified penalties for quasi-public officers, former quasi-public officers, and agency employees; providing for procedure against certain complaints filed with malicious intent against quasi-public officers; amending s. 112.324, F.S.; requiring the Commission on Ethics to report findings on investigations of quasi-public employees to the Governor; providing for severability; providing an effective date.

WHEREAS, the people of Florida through Article II, Section 8 of the Florida Constitution require that individuals holding offices or employment on behalf of the state do so in public trust, and

WHEREAS, the Legislature has determined persons in positions of public trust must meet the highest level of professionalism and ethical standards and that the law shall protect against any conflict of interest, and

WHEREAS, officers and employees of quasi-public entities created for a public purpose must be prohibited from breaching the public trust for personal gain and must be held to the same code of ethics as public officers and employees, NOW, THEREFORE,

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COUNCIL/COMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

Amendment (with title amendment)

Remove line(s) 637-703 and insert:

Section 11. Paragraph (e) of subsection (5) of section 112.3215, Florida Statutes, as amended by chapter 2005-359, Laws of Florida, is amended to read:

112.3215 Lobbying before the executive branch or the
Constitution Revision Commission; registration and reporting;
investigation by commission.--

(5)

(e) The commission shall provide by rule the grounds for waiving a fine, the procedures ~~a procedure~~ by which a lobbying firm that fails to timely file a report shall be notified and assessed fines, and the procedure for appealing the fines. The rule shall provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The

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fine shall be \$50 per day per report for each late day up to a maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

a. When a report is actually received by the lobbyist registration and reporting office.

b. When the report is postmarked.

c. When the certificate of mailing is dated.

d. When the receipt from an established courier company is dated.

3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine shall not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the

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notice of payment due is transmitted by the Lobbyist
Registration Office. In such case, the lobbying firm shall,
within the 30-day period, notify the person designated to review
the timeliness of reports in writing of his or her intention to
bring the matter before the commission.

6. The person designated to review the timeliness of
reports shall notify the commission of the failure of a lobbying
firm to file a report after notice or of the failure of a
lobbying firm to pay the fine imposed. All lobbyist
registrations for lobbyists who are partners, owners, officers,
or employees of a lobbying firm that fails to timely pay a fine
are automatically suspended until the fine is paid or waived,
and the commission shall promptly notify all affected principals
of any suspension or reinstatement.

7. Notwithstanding any provision of chapter 120, any fine
imposed under this subsection that is not waived by final order
of the commission and that remains unpaid more than 60 days
after the notice of payment due or more than 60 days after the
commission renders a final order on the lobbying firm's appeal
shall be collected by the Department of Financial Services as a
claim, debt, or other obligation owed to the state, and the
department may assign the collection of such fine to a
collection agent as provided in s. 17.20.

===== T I T L E A M E N D M E N T =====

Remove line(s) 55 and insert:

suspension of certain lobbyist registrations if the fine is not

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